

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANJI LYNN BAKER,

Petitioner, No. CIV S-01-0804 LKK JFM P

VS.

GAIL LEWIS, Warden, et al.,

Respondents. ORDER

Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's August 16, 2007, denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The certificate of appealability must “indicate which specific issue or issues satisfy” the requirement. 28 U.S.C. § 2253(c)(3).

A certificate of appealability should be granted for any issue that petitioner can demonstrate is ““debatable among jurists of reason,”” could be resolved differently by a different

1 court, or is “adequate to deserve encouragement to proceed further.”” Jennings v. Woodford,
2 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).¹

3 Petitioner has made a substantial showing of the denial of a constitutional right in
4 the following issue presented in the instant petition: whether the prosecutor engaged in
5 discrimination during jury selection in violation of Batson v. Kentucky, 476 U.S. 79 (1986) and
6 People v. Wheeler, 22 Cal.3d 258 (1978); and whether petitioner was deprived of his right to
7 confront Amber H. when the trial court barred him from cross-examining her about evidence that
8 she intended to have consensual sex with petitioner when she put out her “trophy blanket.”

9 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is
10 issued in the present action.

11 DATED: September 14, 2007.

12 
13 LAWRENCE K. KARLTON
14 SENIOR JUDGE
15 UNITED STATES DISTRICT COURT

25 ¹ Except for the requirement that appealable issues be specifically identified, the
26 standard for issuance of a certificate of appealability is the same as the standard that applied to
issuance of a certificate of probable cause. Jennings, at 1010.